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November 15, 2013

VIA ECF and regular mail  
JUDGE LEONARD D. WEXLER  
Long Island Federal Courthouse  
944 Federal Plaza  
Central Islip, New York 11722  
(631) 712-5640

Re: Darryl Mitchell vs. Suffolk County, et al.  
Docket No.: 11-CV-00658-LDW-WDW

Dear Judge Wexler,

I am associated with the law firm Bader Yakaitis & Nonnenmacher, attorneys for Plaintiff, Darryl Mitchell, in his Civil Rights Claim against Suffolk County and multiple Police Officers.

This letter application is being presented in furtherance of this Court's Order dated November 6, 2013 and pursuant to local Rule 1.4 for an order (1) granting for Bader, Yakaitis & Nonnenmacher, LLP permission to withdraw as counsel to plaintiff, Darryl Mitchell; (2) staying this action to give Mr. Mitchell an opportunity to obtain new counsel and (3) establishing and preserving a charging lien in favor of Bader, Yakaitis & Nonnenmacher, LLP for work performed and costs incurred in prosecuting plaintiff's case.

This is a Civil Rights action. More particularly, this is an action to recovery monetary damages for personal injuries suffered by the plaintiff as a result of an incident he had with Suffolk County police officers.

A. Satisfactory Reasons for Withdrawal

Bader, Yakaitis & Nonnenmacher, LLP have satisfactory reasons for withdrawing as Mr. Mitchell's attorney. As will be revealed by the affirmation filed under seal, there has been a

complete breakdown in the attorney-client relationship with the plaintiff. Additionally, irreconcilable differences have developed between counsel and plaintiff making it impossible for Bader, Yakaitis & Nonnenmacher, LLP to continue representing Mr. Mitchell in this or any action.

B. Withdrawal at this Juncture Will Not Substantially Disrupt The Litigation Of This Matter

The brief delay caused by Bader, Yakaitis & Nonnenmacher, LLP request to withdraw as counsel will not prejudice the defendants or Darryl Mitchell.

C. The Court Should Grant Bader, Yakaitis & Nonnenmacher, LLP Request To Assert A Charging Lien

Bader, Yakaitis & Nonnenmacher, LLP is also moving this court to assert a charging lien for work performed and costs incurred in prosecuting plaintiff's case.

New York Judiciary Law Section 475 "governs attorney's charging liens in federal courts sitting in New York." *Itar-Tass Russian News Agency v. Kurier, Inc.*, 140 F. 3d 442, 448 (2<sup>nd</sup> Cir. 1998) (citing cases). Section 475 provides, in relevant part:

From the commencement of an action,... the attorney who appears for a party has a lien upon his client's cause of action, claim or counterclaim, which attaches to a verdict, report, determination, decision, judgment or final order in his client's favor... The court upon the petition of the client or attorney may determine and enforce the lien.

My firm has done a tremendous amount of work on behalf of Mr. Mitchell. We have handled this action from its inception to the conclusion of discovery.

For all of the foregoing reasons, Bader, Yakaitis & Nonnenmacher, LLP respectfully urges that the Court issue an Order granting this application.

Respectfully submitted,



Jesse M. Young, Esq.

CC:

Daryl Mitchell  
21 Tilney Avenue  
Medford, N.Y. 11763

Arlene Zwilling, Esq. via ECF